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PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) SON-2196	
	Application Number 09/931,577-Conf. #2196	Filed August 17, 2001
	First Named Inventor	
	Art Unit 2623	Examiner M. P. Vanhandel

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant /inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [x] attorney or agent of record. Registration number 24,104 / 40,290
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____

40,290
Signature

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Typed or printed name

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July 30, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of 1 forms are submitted.

Docket No.: SON-2196
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Shinji NEGISHI, et al

Confirmation No.: 2196

Application No.: 09/931,577

Art Unit: 2623

Filed: August 17, 2001

Examiner: Michael P Van Handel

For: DATA TRANSMISSION SYSTEM, DATA TRANSMITTING APPARATUS AND METHOD, AND SCENE DESCRIPTION UNIT AND METHOD

REQUEST FOR PRE-APPEAL BRIEF PANEL REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner and/or Reviewer:

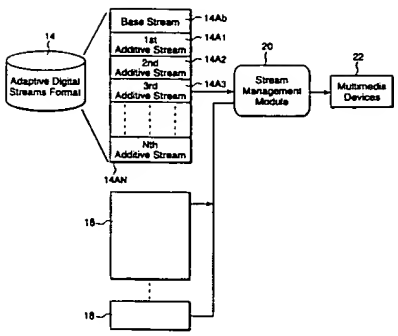
This request for Pre-Appeal Panel Review is in response to the Advisory Action of July 10, 2008. Claims 1, 14, 27-30, 32-43, 45-46, 48-52, 78, and 95-115 remain pending in this application.

Rejections under 35 U.S.C. § 102/103

Claims 27-30, 32-39, and 95-104 have been rejected under 35 U.S.C. § 102 over U.S. Patent No. 5,953,506 to Kalra et al. ("Kalra") ; Claims 1, 14, 27-30, 32-43, 45, 46, 48-52, 78, and 105-115 have been rejected under 35 U.S.C. § 103 over Kalra in view of Applicant's Admitted Prior Art ("AAPA").

With respect to the present claims, the critical point of contention between the Applicant and Examiner focuses on the composition and handling of the Adaptive Digital Stream Format 14 in Kalra. Element 14A, in Fig. 2A, illustrates an Adaptive Digital Stream. The Adaptive Digital Stream 14 includes a Basic Stream 14Ab having the essential portions of the data, and a series of Additive Streams 14A1-14AN which augment the Basic Stream 14Ab and are made available to the

Fig. 2A



client based on the client profile. The media streams may include 3D, audio, or video streams tailored based on the client profile. Standard Digital Media 12 will generally be MPEG data, while the 3D stream is generally modified VRML.

AAPA, also a cited reference, discloses functionality similar to that disclosed in Kalra. Particularly, the AAPA recognizes the use of technology to modify data streams to conform with client bandwidth and/or processing power. However, like Kalra, AAPA fails to address the problem of displaying the reduced resolution media within a scene description tailored for regular resolution data. For example, while a given scene may display ideally with a full resolution media stream, when the media stream bit-rate is reduced, the media no longer displays properly, instead revealing blurred regions and reduced fidelity. The present application overcomes this problem by adjusting the scene description to compensate for the reduced media stream. For example, when video resolution is reduced, the scene description compensates by reducing the screen space allocated to the video.

With respect to claim 1, Kalra fails to teach or suggest "*an elementary stream (ES) processing means that transfers at least one ES, which conforms to at least one of a transmission line state and a request issued from the receiving apparatus, [and] a scene description processing means that transfers and modifies a scene description to conform to a corresponding quality of the at least one ES from the ES processing means by adjusting the properties assigned to the ES within the scene description.*"

Claim 1 discloses two components: (1) An elementary stream processing means that transfers *"at least one ES, which conforms to at least one of a transmission line state and a request issued from the receiving apparatus"*; and (2) the scene description processing means that "*transfers and modifies a scene description to conform to a corresponding quality of the at least one ES from the ES processing means.*" The claims distinguish the elementary stream from the scene description, and the scene description is modified "*to conform to a corresponding quality of the at least one ES.*"

In rejecting the ES processing means, the Final Office Action recites:

> a scene description processing means that transfers and modifies a scene description to conform to a corresponding quality of the at least one ES from the ES processing means by adjusting the properties assigned to the ES within the scene description (col. 19,1. 47-64; col. 21, 1. 61-67; col. 22, 1. 37-53; & Fig. 17).

Columns 19-21 of Kalra refer to the modifications made to a VRML format to create an adaptive stream (see Fig. 1). Columns 19-21 discuss how a 3D media stream originates as VRML media and is converted into a 3-D Adaptive Media Stream by the flowchart process shown in Fig. 17. In setting forth the argument that claim 1 is obviated by Kalra, the Office Action mistakenly attempts to imply that the VRML format is separate from the adaptive media stream, whereas columns 19-21 explain that the VRML format becomes the Adaptive Media Stream. This is further illustrated in Fig. 17, which shows a flowchart of the transcoding process for converting a VRML format into an adaptive stream format, furthering the process illustrated in Fig. 1.

Kalra fails to distinguish any scene description from the media stream and identifies the media stream as having properties assigned to it within the scene description. As such, two pieces of data (i) the elementary stream and (ii) the scene description are recited.

In Kalra, the VRML media is the media stream being modified. There is no second object being modified to account for the modified VRML data, and the VRML data is not modified to adjust the properties of another media stream. Instead, the VRML is modified to match a user profile. This is similar to the earlier portions of Kalra that discuss modifying an MPEG video stream based on the client profile.

The Advisory Action attempts to address this deficiency by arguing that Fig. 17 of Kalra illustrates the compression of the spatial document (i.e., the format defines the position of the elements in the scene) and the compression of the elements, as being distinct compression states. However, this position fails because, in Kalra, the document format (whether it be VRML to MPEG video) is compressed such that all the data, whether it is the spatial document or the individual scene elements, is compressed. There is no disclosure or indication that the scene description documents are modified based on the rate of compression applied to the scene elements. In essence, Kalra performs the same steps as the device disclosed in the background of the present application.

While Kalra employs different compression methods, it does not modify the spatial document based on the changes to the elements of the scene. That is, it does not account for the changes caused by the compression. Furthermore, AAPA does not remedy the deficiencies of Kalra because, like Kalra, AAPA only discloses a mechanism to modify the media stream itself to reduce bandwidth or bit-rate to account for the limitations of the client device. Like Kalra, AAPA does not discuss the modification of the scene description to compensate for the changes to the media stream. On the contrary, it is this very deficiency in the prior art that the present application seeks to remedy.

Accordingly, neither Kalra nor AAPA either alone or in any proper combination teach or suggest the features of claim 1.

Claim 33 recites:

> A data transmitting apparatus according to Claim 27, further comprising:
>
> wherein the scene description processing means transfers a scene description that specifies whether the at least one ES is to be used to construct a scene are used or not.

For similar reasons to those set forth above, neither Kalra not AAPA teach or suggest "*wherein the scene description processing means transfers a scene description that specifies whether the at least one ES is to be used to construct a scene are used or not.*"

The Office Action cites to columns 21-22 of Kalra as the basis for rejecting claim 33. Columns 21-22 discuss the process by which the VRML media becomes an Adaptive Media Stream. This adaptive stream data allows for a reduced data stream to be sent to the client. However, Kalra is deficient with respect to the "scene description." That is, there is no scene description, that is separate from the media stream, that is sent to the client or that is modified based on the media stream.

Even if Kalra and AAPA were combinable (which is not admitted), Applicant submits that the combination would fail to teach or suggest a media stream and scene description as recited in claim 33. Instead, a combination of Kalra and AAPA would necessarily yield a system that is similar to what Kalra already does, i.e., produce and modify media streams based on user profiles and/or bandwidth. This is because the problems and solutions provided by Karla and AAPA are

both very similar, in that both simply provide an adjusted media content. However, neither teaches or suggests modifying a scene description to account for changes to the media stream.

Since even a combination of the relied upon references would still fail to yield the claimed invention, Applicant submits that a prima facie case of obviousness for claims 1 and 33 has not been presented. Applicant also notes that the offered combination appears to be a (failed) attempt to reconstruct the claimed invention in hindsight, as there is no basis to combine Kalra and AAPA to produce the present claimed invention. For the reasons stated above, claims 14, 27, 40, 46, 78, 95, 98, 105 and 109 also overcome the Kalra and AAPA. Furthermore, at least for the reason disclosed above, claims 28-30, 32-39, 41-43, 45, 48-52, 96, 97, 99-104, and 106-115, overcome the combination of Kalra and AAPA because they depend on independent claims 27, 40, 78, 95, or 105.

CONCLUSION

Accordingly, Applicant respectfully requests that the rejection of claim 1-15 under 35 U.S.C. § 103(a) be withdrawn.

Dated: July 30, 2008

Respectfully submitted,

By 40,290

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